

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

LIFEBIO, INC.,

Plaintiff,

v.

EVA GARLAND CONSULTING, LLC.,

Defendant.

Civil Action 2:21-cv-722

Judge Edmund A. Sargus, Jr.

Magistrate Judge Kimberly A. Jolson

OPINION AND ORDER

This matter is before the Court on Plaintiff's Motion to Compel (Doc. 36). On September 8, 2022, the Court held a Discovery Hearing to discuss ongoing discovery issues. (*See* Docs. 36, 38, 40, 46, 48). The Court issued several directives, which are summarized here.

Plaintiff is **ORDERED** to identify five (5) communications from the privilege log for the Court to review in camera and notify Defendant of the selection by **September 15, 2022**. Defendant is **ORDERED** to send the selected communications to Chamber's email (Jolson_Chambers@ohsd.uscourts.gov) within **three (3) business days** of Plaintiff's notice.

Next, Defendant is **ORDERED** to identify an individual involved in conducting ESI searches of their systems. This could be Ms. Borders, an IT specialist, or someone else better suited to provide the declaration. The Court notes that if Ms. Borders is the best individual to provide the declaration, her declaration will not be grounds for a waiver of the privilege. The individual **SHALL** provide a declaration describing how the search was conducted, including for example: What search terms were used, how many hits were returned, and how many documents were produced and on what day. Defendant is **ORDERED** to provide Plaintiff and the Court with the declaration by **September 22, 2022**. Within **seven (7) days** of the production of the declaration, Plaintiff **SHALL** provide Defendant with any follow-up questions. Within **fourteen**

(14) days of the production of the declaration, the parties are **ORDERED** to file a status report regarding the issue.

Plaintiff requested the Court order a forensic expert to conduct an audit of Defendant's systems. The Court **DEFERS** ruling on this request until the declaration is produced and the parties file the status report.

To allow compliance with the Court's ruling, case schedule deadlines (*see* Doc. 47) are **EXTENDED** by **forty-five (45) days**.

Finally, Plaintiff's request for attorney's fees is **DENIED**. Plaintiff may renew the request if it is warranted after the privilege log and declaration are reviewed.

In sum, Plaintiff's Motion to Compel (Doc. 36) is **GRANTED** in part and **DENIED** in part, consistent with this Opinion and Order and the reasoning provided at the hearing.

IT IS SO ORDERED.

Date: September 9, 2022

s/ Kimberly A. Jolson
KIMBERLY A. JOLSON
UNITED STATES MAGISTRATE JUDGE